

REMARKS

In a Requirement for Restriction and Election of Species ("Requirement") mailed April 2, 2008, the Examiner required an election under 35 U.S.C. § 121 between the following alleged species: Species I (Figure 4), Species II (Figure 5), Species III (Figure 6), Species IV (Figure 7), Species V (Figure 8), and Species VI (Figure 9).

Applicant amends claim 44 to correct a minor informality, and adds claims 59-65. Support for the newly added claims can be found at least with reference to Figure 4, and pages 6, 10, 12, and 15 of the specification.

Applicant filed an election of species on May 30, 2008, however, Applicant received a Notice of Non-Complaint Amendment requesting a re-election. On February 5, 2009, Applicant contacted the Examiner to discuss the restriction requirement, presenting remarks similar to the traversal remarks presented in the election of May 30, 2008, and asserting that Figures 4, 5, 6, 7, 8, and 9 do not disclose species of a genus. Applicant indicated to the Examiner several sections of the specification indicating that the Figures are not distinct species.

These sections of the specification include, for example, "Figs. 3 and 4 illustrate the principle of transcoding hints metadata organization in accordance with an embodiment of the invention." Specification at 11, ll. 3-4. "Fig. 4 depicts an example of the basic organization of a transcoding hints metadata state diagram consisting of three discrete transcoding hints metadata states." Specification at 12, ll. 6-7. Furthermore, in the discussion of Figure 5, the specification notes that element 510 of Figure 5 "calculates the transcoding hints state for every segment. Methods for these calculations according to an embodiment of the invention will be described in detail

below with reference to Fig. 6, Fig. 7, and Fig. 8.” Specification at 15, ll. 17-19. As such, Applicant asserted that the Figures do not represent different species of a genus

The Examiner, upon reconsideration, noted his agreement with this position. However, the Examiner asserted that exemplary claims 33 and 34 indicate different species of the claimed invention, and requested that Applicant elect one of these species. Based on these discussions, Applicant provisionally elects to prosecute Species I, Figure 4, with traverse. Applicant submits that claims 1-30, 31, 33, 35, 37, 39, 41, 42, 44-46, 48, 49, and 51-65 are readable on elected Species I.


Applicant continues to traverse the outstanding requirement for an election of species for the reasons set forth on May 30, 2008.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
Trenton J. Roche
Reg. No. 61,164